



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/682,476	07/31/2001	Christine L. Corriveau	112703-183	9018

29156 7590 11/06/2002

BELL, BOYD & LLOYD LLC  
P. O. BOX 1135  
CHICAGO, IL 60690-1135

EXAMINER

CORBIN, ARTHUR L

ART UNIT	PAPER NUMBER
----------	--------------

1761

DATE MAILED: 11/06/2002

5

Please find below and/or attached an Office communication concerning this application or proceeding.

# **Office Action Summary**

Application No.

09/682,116

Applicant(s)

CORRIVEAU ET AL

Examiner

ARTHUR L CORBIN

Group Art Unit

1761

— The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address —

## **Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## **Status**

- ☒ Responsive to communication(s) filed on 2-8-02
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## **Disposition of Claims**

- ☒ Claim(s) 1-26 is/are pending in the application.
- Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- ☒ Claim(s) 1-26 is/are rejected.
- ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- ☐ Claim(s) \_\_\_\_\_ are subject to restriction or election requirement

## **Application Papers**

- ☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

## **Priority under 35 U.S.C. § 119 (a)-(d)**

- ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119 (a)-(d).
- ☐ All ☐ Some\* ☐ None of the:
- ☐ Certified copies of the priority documents have been received.
- ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
- ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a))

\*Certified copies not received: \_\_\_\_\_

## **Attachment(s)**

- ☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 4
- ☐ Interview Summary, PTO-413
- ☒ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Other \_\_\_\_\_

Office Action Summary

Art Unit: 1761

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 8 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

There is no antecedent basis in claim 7 for "the tableting powder" (claim 8). Correction is required.

3. Claim 12 is objected to because of the following informalities: In claim 12, line 3 "an" should be changed to "the". Appropriate correction is required.

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-5, 9-15, 17, 18, 21-24 and 26 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Cherukuri et al.

Cherukuri et al discloses preparing a tableted chewing gum composition including granulating chewing gum into gum particles of 4 mesh (about 6mm) and composed of about 50%

Art Unit: 1761

gum base and about 50% powdered sweetener; and adding 2% magnesium stearate lubricant, a <sup>and about 5% dry powdered active agent</sup> colorant, and then forming into a tablet by compressing the components.

7. Claims 6, 7 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cherukuri et al.

Finding the optimum amount of gum component and tableting media would require nothing more than routine experimentation by one reasonably skilled in this art.

8. Claims <sup>8</sup>, 16, 19, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cherukuri et al in view of Ream et al.

It would have been obvious to chill or cool the chewing <sup>gum</sup> composition before granulating into chewing gum particles in the process of Cherukuri et al since it is old to cool chewing gum before chipping into gum particles, as evidenced by Ream et al (col. 3, lines 53-63). Further, it would have been obvious to prepare the chewing gum product in Cherukuri et al so that the colorant therein brings the color of the sweetener close to the color of the gum particles or so that the color of the sweetener contrasts with the color of the gum particles since it is well known to add a colorant to a chewing gum composition to achieve either of these objectives, as evidenced by Ream et al (col. 5, lines 28-34).

9. Claims 1-26 are also rejected under 35 U.S.C. 103(a) as being unpatentable over Ream et al (cols. 1-6) in view of Cherukuri et al or Athanikar et al.

Ream et al discloses preparation of a chewing gum composition by cooling a chewing gumsheet and forming gum chips, having a size of 0.5 to 6mm, therefrom. The gum chips are mixed with powdered sweetener, e.g. dextrose, so that about 50% of each is present (col. 6, lines 5-15). A colorant is added so that the color of the sweetener is close to or different from the

Art Unit: 1761


color of the gum chips. Additionally, 77% magnesium stearate is included in the gum product. It would have been obvious to compress the gum composition in Ream et al into a tablet since it is old to prepare a chewing gum tablet from a chewing gum composition including gum particles and sweetener, as evidenced by Cherukuri et al (col. 3, lines 7-16) or Athanikar et al (col. 3, lines 10-25 and col. 4, lines 25-28). With regard to claims 6 and 25, <sup>so the</sup> ~~the~~ last sentence in paragraph no. 7 above.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Arthur Corbin whose telephone number is 703 308-3850. The examiner can normally be reached on Tuesday-Friday from 10 AM to 7:30 PM and on alternate Mondays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on 703 308-3929. The fax phone numbers for the organization where this application or proceeding is assigned are 703 872-9310 for regular communications and 703 872-9310 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703 308-0661.

Examiner Corbin/ng  
November 4, 2002

  
ARTHUR L. CORBIN  
PRIMARY EXAMINER  
11-5-02